

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON
U.S. MAGISTRATE JUDGE

DATE: 9/30/11
TIME: 2:00 PM

Browning, et al. -v- CEVA Freight, LLC, et al., **CV-10-5594 (ADS) (AKT)**

TYPE OF CONFERENCE: **TELEPHONE STATUS CONFERENCE**

APPEARANCES: Plaintiff James E. Murphy
Lloyd R. Ambinder

Defendant Jeffrey I. Kohn
Jennifer M. Evans

THE FOLLOWING RULINGS WERE MADE:

1. At the May 4, 2011, Initial Conference, I limited discovery solely to the issue of the independent contractor status of the plaintiffs. Today's Conference was scheduled in order to follow-up with the parties.
2. The Court was provided with a status report which stated that the limited written discovery was completed as well as all depositions discussed at the Initial Conference. The parties also agreed that supplemental document production would be completed by October 14, 2011.
3. The parties maintain, and the Court agrees, that this matter is ripe for summary judgment solely as to the independent contractor issue raised by the defendants. Based on the amount of discovery and the expense involved in this purported FLSA class action, the Court believes that this issue should be resolved before full-blown discovery proceeds. Therefore, the Court in consultation with the parties has set the following deadlines for exchange of the Rule 56.1 Statements:
 - Defendants' deadline to serve their Rule 56.1 Statement: November 2, 2011
 - Plaintiffs' deadline to serve their Rule 56.1 Counter-Statement: November 16, 2011
 - Deadline for Defendants to file their letter request for a pre-motion conference to Judge Spatt with the 56.1 Statements attached: November 23, 2011
4. If Defendants' motion for summary judgment is denied, the parties are directed to contact my Chambers within 5 days of Judge Spatt's decision to schedule a telephone conference. At that time, the deadlines for the remainder of the pre-trial phase of this case will be scheduled.

SO ORDERED

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
U.S. Magistrate Judge